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In re Application of JARRELL et al	:	
U.S. Application No.: 09/762,648	:	DECISION ON PETITION
Int. Application No.: PCT/US98/17691	:	
Int. Filing Date: 26 August 1998	:	UNDER 37 CFR 1.137(b)
Priority Date: 27 August 1997	:	
Attorney Docket No.: 0342941-0045+0031	:	
For: NOVEL TRANSCRIPTIONAL REGULATORS	:	
AND USES THEREFOR	:	

This is in response to applicants' "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 05 April 2000.

### **BACKGROUND**

On 26 August 1998, applicants filed international application PCT/US98/17691, which claimed priority of an earlier United States application filed 27 August 1997. A copy of the international application was communicated to the USPTO from the International Bureau on 04 March 1999. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 27 February 2000.

International application PCT/US98/17691 became abandoned as to the United States at midnight on 27 February 2000 for failure to pay the basic national fee.

On 05 April 2000, applicants filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional."

### DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicants have provided the basic national fee required by 35 U.S.C. 371.

With regard to item (2), applicants have provided the required petition fee.

With regard to item (3), applicants have provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

### CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application has an international filing date of 26 August 1998.

The application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) along with a Notification of a Defective Oath or Declaration (Form PCT/DO/EO/917), indicating that the date of execution is missing from the third named inventor and that a properly executed oath or declaration in compliance with 37 CFR 1.497 and the appropriate late declaration filing surcharge must be filed.



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